to transfer the disputed property to New Hope Christian Reformed Church of Tacoma, and to pay any revenues generated from the property during their wrongful ownership to the church. Applying the "deference approach" discussed in *Presbytery of Seattle, Inc. v. Rohrbaugh,* 79 Wash.2d 367, 485 P.2d 615 (1971), and *Southside Tabernacle v. Pentecostal Church of God,* 32 Wn. App. 814, 650 P.2d 231 (1982), with regard to church property disputes, we affirm the trial court's order.

FACTS

I. History of New Hope Christian Reformed Church

Samuel Sung became a minister in the Christian Reformed Church of North America (CRCNA) in 1985. He founded the Hope Christian Reformed Church (Hope CRC) in Seattle around the same time. In 1991, Hope CRC became an officially recognized member of the CRCNA and the Classis Pacific Northwest, a regional association of CRCNA churches in Western Washington and Alaska. Sung served as pastor to Hope CRC, and its successor New Hope Christian Reformed Church (New Hope CRC), from its inception until his retirement in 2003.

Originally, Hope CRC owned property in SeaTac. In 1999, it sold that property and purchased property in Tacoma, which is the property in dispute here. When Hope CRC moved to Tacoma, it changed its name to New Hope CRC.[1]

---

1. When Hope CRC moved to Tacoma, it had only 10 members.

Appendix A

Sung originally incorporated "Hope Christian Reformed Church," Unified Business Identifier (UBI) No. 23-705-023 in 1986. Clerk's Papers (CP) at 134. The State administratively dissolved the corporation in 1994 for failure to file its annual list of officers. Sung seldom maintained the church's corporate status or kept corporate minutes or records. In 1997, Sung formed a second entity, "Hope Christian Reformed Church of Seattle," UBI No. 601-811-132, apparently to reinstate the original Hope CRC. CP at 134. In 1999, the second Hope CRC entity changed its name to "New Hope Christian Reformed Church," but in 2000 it too was dissolved. CP at 134.

The CRCNA has many rules and requirements for its member churches, which are set forth in the "Church Order and Rules for Synodical Procedure" (Church Order). Ex. 45. The Church Order generally requires governance by a church council composed of a senior pastor, church elders, and church deacons. Sung did not always abide by CRCNA rules.[2] For example, as pastor, Sung made decisions without the church council's participation.

As Sung neared retirement, he began to seek someone to replace him. Sung chose not to follow CRCNA

2. When Hope CRC joined the CRCNA in 1991, Sung signed a "Form of Subscription," stating that he would follow the CRCNA "church order." Ex. 102, at 34, 35. During deposition, however, Sung argued that although he signed the form, he had agreed to follow the "church order" only "in part." Ex. 102, at 35. There is nothing indicating that Sung's agreement with the CRCNA was different from any other form of subscription.

procedure for this process. Instead, Sung found someone whom he thought was a suitable candidate, Reverend B. Kim, a minister in the Presbyterian Church (PCUSA).[3] Sung and Kim entered into an agreement that would merge their two churches and allow Kim to become minister of the New Hope CRC.[4] At the time of the merger, Sung's congregation had dwindled to 15 members, consisting of Sung's family and two or three other families. Kim's congregation had approximately 40-50 members.

In October 2002, Sung drafted and executed the agreement, which he wrote in Korean. At trial, translators disagreed about the precise meaning, but in essence the agreement provided that:

> a. Reverend B. Kim was to take over as Senior Pastor of the New Hope [CRC];
>
> b. Reverend B. Kim was to become [an officially sanctioned] CRCNA pastor;

3. Although the PCUSA is a different denomination than the CRCNA, the record demonstrates that Presbyterian and Christian Reformed Churches share common historical roots and are fairly similar in terms of doctrine and governance. At times, Sung claimed that New Hope CRC ceased to associate with the CRCNA between 2003 and 2004 because certain literature referred to the church as "New Hope Presbyterian Church." The CRCNA disputes this by providing evidence that many of its local congregations use the term "Presbyterian" in their church names with its full blessing. Ex. 76, at 2.

4. Sung did not have approval from his congregation to enter into this agreement.

> c. Reverend Sung was to be paid $ 60,000 [in cash] and the new congregation was to assume $ 40,000 in debt;[5]
>
> d. There was to be a retirement ceremony for Sung.
>
> CP at 135. Neither the Classis nor the CRCNA was informed of this agreement.

Kim's congregation raised $ 60,000 and paid it to Sung. Sung officially retired in April 2003. Sung's CRCNA status changed from senior pastor to "Pastor Emeritus," which was required for him to access his CRCNA pension. CP at 135-36.

Following the merger, new church council members were elected, including Tae Choi, InMin Kim,[6] and Myung Soon Hilton. InMin Kim and Hilton joined New Hope CRC in 2002 as members of Kim's congregation. Choi, who had known Kim for some time, joined New Hope CRC in September 2003 and became a church elder. Kim served as pastor for the New Hope CRC congregation for nearly two years. He started the process of becoming a CRCNA certified pastor, but he did not complete the program. Nonetheless, the CRCNA considered New Hope CRC to be affiliated with them during this period.

5. This debt included a $ 25,000 mortgage on the Tacoma property and a $ 15,000 debt to the Classis.

6. To avoid confusion, plaintiff and church council member "InMin Kim" is always referred to by this name.

After two years, Kim left New Hope CRC, leaving the church without a senior pastor. The church invited various pastors from other denominations to conduct weekly services while New Hope CRC decided what to do.

Sung, who still attended New Hope CRC on a sporadic basis, came back and announced to the church that he would reclaim his position as senior pastor.[7] The church council rejected Sung's offer and asked the Korean Council[8] and the Classis to call for a new pastor in accordance with CRCNA rules. Sung promptly told those who had joined New Hope CRC during the merger with Kim's congregation that they were no longer members of the New Hope CRC congregation.[9] Sung

---

7. At his deposition, Sung maintained that he was still the president of the church council after retirement. Counsel asked Sung to clarify how this was the case. Sung responded that because Kim was not formally installed as a CRCNA pastor, "he could not manage [ ] church matters. So that means that up until such time as the new pastor got installed the existing pastor ha[s] the right to operate the church." Ex. 102, at 49. There appears to be no basis for this proposition in the CRCNA's rules. Further, when asked if the postmerger congregation voted him onto the council, Sung's responses were evasive, and he eventually stated, "No." Ex. 102, at 50.

8. The Korean Council is a council of ministers and elders of Korean CRCNA churches within the Northwest Classis.

9. The ousted congregation included the church council and almost all existing members of the church, excluding Sung's family. In a letter to the congregation, Sung wrote, "all member[s] who have joined the New Hope CRC congregation who used to be Rev. Kim's old church, automatically [lose] their rights or claims, whatsoever, on the polity of the church nor [sic] utilization of the church resources and properties." Ex. 26.

informed them that they could no longer hold services at the Tacoma property, and he changed the locks on the building.

In the meantime, Sung set up a new entity called "New Hope Christian Reformed Church," UBI No. 602-450-843, and a second entity called "Morning Star World Mission," UBI No. 602-468-976.[10] Though the record reveals no evidence of elections of council members or formal approval by an elected church council, Sung executed a quitclaim deed to transfer the Tacoma property from New Hope CRC to Morning Star World Mission.[11] Sung claims that a unanimous "vote of the members of his original New Hope CRC congregation and leadership" authorized his actions. Appellant's Br. at 13. However, Sung did not invite Choi or InMin Kim to the meeting to discuss the quitclaim deed or invite them to vote on the matter.

While seeking help from the CRCNA, the ousted congregation began holding services at various homes, eventually renting a room in the basement of another

---

10. For the new New Hope entity, the articles of incorporation list only Sung and Jennifer Yang as directors. Further, for the new Morning Star entity, Sung listed himself as the only director in the Articles of Incorporation.

11. The transfer occurred on April 7, 2005. Morning Star has rented the property to another church for $ 1,500 a month. Pl.'s Ex. 89. As of October 2, 2007, Morning Star had received $ 27,500 in payments for use of the Tacoma church space. A large portion of this money goes to Sung in various ways, including mission trips for Morning Star and attorney fees.

church for $ 300 a month. The congregation had a new CRCNA minister, Reverend G. Kim, appointed to serve as pastor on an interim basis.

II. Dispute at the Classis

To be affiliated with the CRCNA, a church must agree to certain rules in the "Church Order and Rules for Synodical Procedure." Ex. 45. One rule requires the Classis or Synod (the assembly above the Classis) to resolve disputes concerning ecclesiastical[12] matters. The churches must agree that the Classis or Synod rulings are binding on them, unless those rulings "conflict with the Word of God." Ex. 45, at 14.

The Classis, following church policy and rules of governance, directed the Classis Interim Committee (CIC) to investigate the dispute between Sung and the ousted congregation. After an investigation, the CIC made the following recommendations to the Classis in March 2005:

> 1. That Rev. Sung resume the honorable position of Pastor Emeritus and not be recognized as the Senior Pastor of the New Hope CRC and not be considered a member of its Council.
>
> 2. That Classis recognize Elder Tae Young Choi as a legitimate elder in the New Hope CRC.

---

12. "Ecclesiastical" means "of or relating to a church esp. as a formal and established institution." WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY 718 (2002).

3. That Classis note that the group with Elder Choi (which has been locked out of the building) is sincere in its desire to be a member congregation in the CRC.

4. That Classis recognize the right of the congregation to begin the process of calling a new Senior Pastor (to be done under the guidance of the Korean Council).

5. That Classis, by these actions, declare that the congregation under the leadership of its Council has the right to the church building and its contents and the Rev. Sung be requested to turn the keys of the building over to the Council.

6. That Classis urge all those involved seek to be reconciled to one another and live in harmony with one another as the Word of God instructs so that the name of our Lord Jesus may be lifted up and not shamed. We as a Classis offer our services toward this end, and particularly stand ready to form a pastoral team to seek reconciliation and pastoral care. This team would be formed under the guidance of the Classical Interim Committee, and include elements of the Korean Counsil [sic].

Ex. 49, at 5. Although the Classis adopted all six recommendations, it did not attempt to implement them immediately. Instead, it called in a mediator from Los Angeles, Reverend Tong Park, to attempt to reach an amicable solution to the dispute. This mediation proved

unsuccessful, however, as Sung refused to submit to the recommendations of the Classis. On April 18, 2005, the Classis stated its intention to implement its recommendations.[13]

In the meantime, Sung had transferred the property to Morning Star on April 7, 2005. The Classis demanded that Sung void the legal documents and relinquish control of the Tacoma property, but Sung refused. In August 2005, the Classis provisionally deposed Sung and divested him of his title as minister of the CRCNA.

Days later however, Sung wrote the Classis a letter indicating his intent to reconcile with the ousted congregation and to follow the Classis's six recommendations.[14] Sung did not follow through on that promise and later claimed to have executed the letter under duress.

---

13. Sung had an opportunity to appeal the decisions of the Classis to the Synod, but he did not do so.

14. Part of the letter reads:

> Last Sunday, I announced before the congregation of the New Hope [CRC] of Tacoma, my apologies for causing division and strife in the body of Christ, and announced my intention to fully follow the six recommendations set by March 3, 2005 Classis meeting, including handing over full property rights to the New Hope [CRC] of Tacoma under the jurisdiction of its rightful board of directors as specified by the church order of the [CRC]. I already handed over the church keys and exchanged the words of reconciliation with Elder Choi.

Ex. 30.

Meanwhile, in June 2005, after the Classis's ruling, Elder Choi reinstated the original New Hope CRC entity (UBI No. 601-811-132), which had been dissolved in 2000. Choi successfully reinstated this entity under the new name "New Hope Christian Reformed Church of Tacoma," identifying Choi, InMin Kim, and Hilton as directors. CP at 137. This entity purchased the Tacoma church property before it was dissolved in 2000. Since reinstatement, it has adopted new articles and bylaws consistent with CRCNA rules.

III. The Lawsuit

The ousted congregation, along with the Classis, sued Sung to enforce the Classis's April 2005 decision to implement its recommendations. On April 26, 2006, the plaintiffs filed a lis pendens in Pierce County Superior Court. Sung answered the complaint and pleaded numerous counterclaims, including slander of title for the lis pendens filing. The matter was tried to the bench over 10 days in November 2007. The trial court heard testimony from Sung, Choi, InMin Kim, and several other ministers and witnesses, and the court examined over 100 exhibits.

The trial court issued a letter ruling on January 3, 2008. On March 31, 2008, the trial court entered formal findings of fact and conclusions of law. The formal findings and conclusions derive from the January letter ruling. The trial court found that the ousted congregation's corporate entity, the New Hope Christian Reformed Church of Tacoma, was the "rightful

owner" of the Tacoma property, and the court ordered Sung to convey the property back to it. CP at 140.[15]

Sung now appeals.

ANALYSIS

I. Standard of Review

When a trial court has weighed the evidence in a bench trial, we limit our review to whether substantial evidence supports its factual findings and, if so, whether those findings support the trial court's conclusions of law. *Hegwine v. Longview Fibre Co.*, 132 Wash.App. 546, 555, 132 P.3d 789 (2006). Substantial evidence exists when there is a sufficient quantity of evidence to persuade a fair-minded, rational person that a finding is true. *In re Estate of Jones*, 152 Wash.2d 1, 8, 93 P.3d 147 (2004). We review only those findings to which appellants assign error; unchallenged findings are verities on appeal. *Hegwine*, 132 Wash.App. at 556, 132 P.3d 789. On appeal, we view the evidence in the light most favorable to the prevailing party and defer to the

15. The trial court also (1) ordered the defendants to pay "all rent and other payments" relating to the use of the property to New Hope Christian Reformed Church of Tacoma pending reconveyance of the property; (2) ordered Morning Star to pay the $ 27,500 in revenues generated from the property through September 10, 2007, and to pay an additional $ 1,500 per month from September 10, 2007 through the date of judgment; and (3) dismissed the defendants' counterclaims with prejudice. CP at 142.

trial court regarding witness credibility and conflicting testimony. *Weyerhaeuser v. Tacoma-Pierce County Health Dep't,* 123 Wash.App. 59, 65, 96 P.3d 460 (2004). We review questions of law and conclusions of law de novo. *Sunnyside Valley Irrigation Dist. v. Dickie,* 149 Wash.2d 873, 880, 73 P.3d 369 (2003). Further, we review conclusions of law erroneously labeled as findings of fact de novo. *Hegwine,* 132 Wash.App. at 556, 132 P.3d 789.

II. *Watson* Compulsory Deference Rule

In reviewing church disputes, courts must take care not to violate the *First Amendment* prohibition against a state entangling itself in matters of church doctrine and practice. The Supreme Court warned against this tendency in *Presbyterian Church in United States v. Mary Elizabeth Blue Hull Memorial Presbyterian Church*:

> [T]he First Amendment severely circumscribes the role that civil courts may play in resolving church property disputes. It is obvious, however, that not every civil court decision as to property claimed by a religious organization jeopardizes values protected by the First Amendment. Civil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property.
>
> ...
>
> But First Amendment values are plainly jeopardized when church property litigation

> is made to turn on the resolution by civil courts of controversies over religious doctrine and practice. If civil courts undertake to resolve such controversies in order to adjudicate the property dispute, the hazards are ever present of inhibiting the free development of religious doctrine and of implicating secular interests in matters of purely ecclesiastical concern ... . [T]he Amendment therefore commands civil courts to decide church property disputes without resolving underlying controversies over religious doctrine.
>
> 393 U.S. 440, 449, 89 S. Ct. 601, 21 L. Ed. 2d 658 (1969).

Historically, the United States Supreme Court has recognized three methods for resolving church property disputes. It is unnecessary to discuss all three, as Washington State has adopted the approach discussed in *Watson v. Jones*, 13 Wall. 679, 80 U.S. 679, 20 L. Ed. 666 (1871), commonly known as the "*Watson* compulsory deference rule." *Southside Tabernacle*, 32 Wash.App. at 820 n.2, 650 P.2d 231. Using the *Watson* rule, we must decide "whether or not the local church is subject to some higher governing authority." *Southside Tabernacle*, 32 Wash.App. at 818, 650 P.2d 231. If the local church is subject to some higher governing authority, then the church structure is described as "hierarchical." *Southside Tabernacle*, 32 Wash.App. at 818, 650 P.2d 231. More specifically, a "hierarchical church" is defined

as a "general church organization in which there are superior ecclesiastical tribunals with a general and ultimate power of control more or less complete, in some supreme judicatory over the whole membership of that general organization." *Watson*, 80 U.S. at 722-23, 13 Wall. 679.

The second church organizational structure that *Watson* identified is a "congregational" structure. A "congregational structure" is defined as "a religious congregation which, by the nature of its organization, is strictly independent of other ecclesiastical associations, and so far as church government is concerned, owes no fealty or obligation to any higher authority." *Watson*, 80 U.S. at 722, 13 Wall. 679. As noted in *Southside Tabernacle*, "[m]ost large [P]rotestant denominations and the Roman Catholic Church have been found to be hierarchical," while courts treat most Baptist churches as congregational. 32 Wash.App. at 818-19, 650 P.2d 231.

Whether a church is congregational or hierarchical is important because it mandates what type of analysis a trial court will undertake when reviewing the church dispute. Where there is a determination that the church fits the congregational model, the trial court should enforce the property decisions made "either by a majority of its members or by such other local organism as it may have instituted for the purpose of ecclesiastical government." *Watson*, 80 U.S. at 724, 13 Wall. 679. The approach taken toward a hierarchically structured church is different. In a hierarchical setting, civil courts defer to the decision rendered by the highest church

judicatory to which the question/dispute was presented.[16] *Watson*, 80 U.S. at 727, 13 Wall. 679.

Here, the trial court's finding of fact determining whether New Hope CRC was hierarchical or congregational is somewhat equivocal. The finding states that "[t]here was testimony that [the church] is a blend, and that is probably true, but [the church] is clearly more congregational." CP at 138. What follows that statement is an explanation by the trial court that the congregation had to follow "certain rules or concepts" in order to affiliate with the CRCNA. CP at 138. The trial court continues by pointing out that the "congregation, church council, elders, deacons and pastor of New Hope CRC were bound to follow the rulings of the Classis" on ecclesiastical matters. CP at 138. Essentially, the trial court labels New Hope CRC as "congregational" but then immediately describes several characteristics of New Hope CRC that are more in keeping with "hierarchical" churches.[17]

---

16. Courts in other jurisdictions have approved of other approaches to property disputes in a hierarchical setting. *See Jones v. Wolf*, 443 U.S. 595, 603, 99 S. Ct. 3020, 61 L.Ed.2d 775 (1979) (approving Georgia's application of the "neutral principles of law" approach and determining that the *First Amendment* does not specifically dictate that a State follow a particular method of resolving church property disputes). The Washington Supreme Court has disavowed the approach taken in *Jones v. Wolf* and exclusively adopted the deference approach. *Presbytery of Seattle, Inc.*, 79 Wash.2d at 373, 485 P.2d 615.

17. The trial court did not make an oral ruling: "I'm not going to, obviously, give you a decision from the bench after a 10-day trial and 100-and-some-plus exhibits ... ." Report of Proceedings (Nov. 30, 2007) at 1253.

The trial court's conclusions of law, however, are unequivocal: they treat the church dispute as if the church is hierarchical. The trial court's conclusions of law explain that because deference is owed to the Classis on ecclesiastical matters, the church is obligated to accept its rulings on matters of "who is in the congregation of the New Hope CRC,[18] and what authority Sung had as a Pastor Emeritus," thus deciding the issue of who has the right to the property's title. CP at 139. The trial court continues, "The Court must defer to the rulings of the church on ecclesiastical matters, which include church governance. As noted, affiliated churches have to follow these same rules of governance." CP at 139.

Sung urges us to consider the trial court's "congregational" finding in isolation while ignoring the important explanation and analysis that follow. Sung asks us to "agree" with the trial court, find New Hope CRC to be congregational, and remand this matter for analysis under "neutral principals of law." Appellant's Br. at 3.

We decline to do so. Where findings are equivocal, we interpret them in a manner that " 'sustains the judgment, rather than [in a manner] which would defeat it.' " *Smith v. Shannon*, 100 Wn.2d 26, 35, 666 P.2d 351 (1983) (quoting *Shockley v. Travelers Ins. Co.*, 17 Wash.2d 736, 743, 137 P.2d 117 (1943)). In context, the

18. Sung agreed with this in his deposition, stating that the Classis decides who may become a CRCNA member.

trial court's description of the church as "clearly more congregational" pertains to the way New Hope CRC conducted itself over the years. CP at 138. The language that follows clarifies the court's findings that New Hope CRC was bound by the rules of the CRCNA, a hierarchical church organization. The trial court's word choice was inartful,[19] but its intent was clear: New Hope CRC is hierarchical and thus, the Classis's decisions on matters presented to it are properly accorded deference. Because substantial evidence supports the finding that New Hope is hierarchical, we affirm the trial court's decision that the parties are bound by the Classis's decisions and that the rightful owner of the Tacoma property is the New Hope Christian Reformed Church of Tacoma. We also affirm all other parts of the trial court's order, including defendants' liability for back rent and revenues, and dismissal of Sung's counterclaims with prejudice.

III. Attorney Fees

Attorney fees may be awarded to a party under RCW 4.28.328 where the party prevails on a motion to cancel the lis pendens, or where the party prevails in defense of the action in which a lis pendens was filed unless substantial justification existed for filing the lis pendens.

19. It is worth noting that the findings of fact and conclusions of law were derived from the trial court's January letter of decision. It is possible that the conversational tone from the original letter simply does not translate to formal findings and conclusions.

Since Sung does not prevail in this action, he is not entitled to fees.

We affirm.

Van Deren, C.J., and Bridgewater, J., concur.

APPENDIX B — FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THE SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY FILED IN OPEN COURT MARCH 31, 2008

IN THE SUPERIOR COURT OF WASHINGTON
FOR PIERCE COUNTY

HONORABLE BRUCE W. COHOE

FILED IN OPEN COURT
MARCH 31, 2008

Tae Y. Choi, InMin Kim, and Myung Soon Hilton, as representatives of the New Hope Christian Reformed Church of Tacoma, f/k/a New Hope Christian Reformed Church, and Reverend Timothy Toeset, as representative of the Classis Pacific Northwest of the Christian Reformed Church of North America,

Plaintiffs,

v.

Samuel Y. Sung and Young Hee Sung, as husband and wife; Morning Star World Mission,

Defendants.

Case No.: 06-2-07278-8

Appendix B

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter came on for trial on November 13, 2007 and concluded on November 30, 2007. The Court heard ten days of testimony and argument. The Court has reviewed and considered over 100 exhibits, as well as deposition testimony submitted by the parties. Having done so, the Court makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. Reverend Samuel Sung became a minister in the Christian Reformed Church of North America (CRCNA) in 1985. He founded the Hope Christian Reformed Church (Hope CRC) in Seattle near the same time. In 1991, the Hope CRC church became officially recognized as a member of the CRCNA and the Classis Pacific Northwest, a regional association of CRCNA churches in Western Washington and Alaska. The church maintained its membership and affiliation with CRCNA until the present dispute arose.

2. The Hope CRC church originally owned a property in SeaTac. It sold that property and purchased a property in Tacoma, which is the property in dispute here, in 1999. When it moved to Tacoma, the church changed its name to the "New Hope Christian Reformed Church."

3. Reverend Sung toiled for many years in his ministry. His family toiled at his side. Even his children

contributed their earnings to support the family and the church. The church membership was never very large, and as near as I can tell from the testimony, it did not provide a great deal of income for Reverend Sung and his family. The church did, however, manage to acquire a church building that has considerable value and only a small debt.

4. During the entire period that Reverend Sung headed his church he seldom maintained its corporate status, kept corporate minutes or corporate records of any nature. It was incorporated as needed for transactions, but then dissolved for failure to file appropriate reports. The "Hope Christian Reformed Church," UBI No. 23-705-023, was originally incorporated in 1986, and then dissolved in 1994. A second "Hope Christian Reformed Church" entity, UBI No. 601-811-132, was formed in 1997 by Mr. Sung, who evidently intended to reinstate the original corporate entity. That entity then changed its name to "New Hope Christian Reformed Church" in 1999, but was dissolved in 2000.

5. Reverend Sung also never really followed the CRCNA rules of governance. CRCNA rules, which are set forth in a book known as the "Church Order," generally provide for governance by a church council composed of the Senior Pastor, church elders, and church deacons. Reverend Sung, however, generally ran the church as he saw fit, sometimes with and sometimes without a church council. This was done without any evil or ill intent. In many ways it was a matter of having a

significant language barrier. The decisions made were largely not harmful to the general church function. Reverend Sung was simply a fairly strong-minded individual doing as he saw best without regard to CRCNA rules or state requirements.

6. As he neared retirement, Reverend Sung began to seek someone to replace him. He didn't follow normal church procedure within the CRCNA to do so. Instead, he simply on his own entered into an agreement with Reverend B. Kim, a minister in the Presbyterian Church (U.S.A.) ("PCUSA") to merge their two churches and allow Rev. Kim to become of the minister of the New Hope Church. At the time of the merger, Rev. Sung's church consisted of his family members and the members of two or three other families, whereas Reverend Kim's church had approximately 40 to 50 members.

7. Although Reverend Kim's church had been affiliated with the PCUSA, which is a different denomination from CRCNA, testimony showed that Presbyterian and Christian Reformed Churches share common historical roots, and are fairly similar in terms of doctrine and governance.

8. Rev. Sung and Rev. Kim entered into a written agreement in October of 2002. The agreement was essentially drafted by Reverend Sung and is in Korean. Translators do not agree on its exact wording but in essence it provides:

a. Reverend B. Kim was to take over as Senior Pastor of the New Hope Church;

b. Reverend B. Kim was to become a CRCNA pastor;

c. Reverend Sung was to be paid $60,000 and the new congregation was to assume $40,000 in debt which included a $25,000 mortgage on the Tacoma property, and a $15,000 dept to the Classis; and

d. There was to be a retirement ceremony for Reverend Sung.

Several additional paragraphs were dedicated to religious obligations of the parties, which are not particularly relevant here.

9. The $60,000 was paid, in cash, and Reverend B. Kim took over as agreed. There was a large retirement ceremony for Reverend Sung as agreed in April 2003, and he was later officially retired by the CRCNA and given a pension. His status in the CRCNA was thus changed to "Pastor Emeritus," which was required for him to get his pension from the CRCNA. He no longer could be considered a "Senior Pastor" under the CRCNA rules of governance.

10. Following the merger, new church council members were elected, which included Plaintiffs Choi, Kim, and Hilton. Plaintiffs Kim and Hilton had joined the church in 2002 with Reverend Kim's congregation. Plaintiff Choi joined the church in September 2003 resulting in part from his prior relationship with Rev.

Kim. Reverend B. Kim served for about two years, but he never officially became a CRCNA pastor and then went elsewhere. This left the church without a Senior Pastor, and various pastors of various denominations were invited by the church council to conduct services on a weekly basis in the interim.

11. Reverend Sung, who was still attending on an irregular basis, came back and indicated he would now be the Senior Pastor. The church council rejected Reverend Sung coming back as pastor, and asked the Korean Council (a council of ministers and elders of Korean CRCNA churches within the Classis) and later, the Classis Pacific Northwest to call for a new pastor in accordance with CRCNA rules.

12. Reverend Sung considered all of the people who joined the church during or after the merger, which included the existing church council and most of the existing church members other than Reverend Sung's family, to no longer be members of the New Hope CRC congregation and may have never considered them members. He informed them they could no longer hold services and locked them out of the church.

13. Meantime, Reverend Sung set up a new entity called "New Hope Christian Reformed Church," UBI No. 602-450-843, and another entity called "Morning Star World Mission," UBI No. 602-468-976. Without any real evidence of elections as council members or approval by an elected church council, Reverend Sung then executed a quitclaim deed to transfer the church

property from New Hope Christian Reformed Church to Morning Star World Mission. Morning Star World Mission, in turn, has since rented the property to another church for $1500 a month. A large portion of this money essentially goes to Reverend Sung in various ways for missionary trips and attorneys fees.

14. In the meantime the ousted congregation sought help from the Korean Council and subsequently the Classis Pacific Northwest. They began holding services at various homes and eventually rented a room in a church for 300 a month in March 2006 and had a new CRC minister, Reverend G. Kim, appointed to be pastor on an interim basis.

15. To be affiliated with the CRC, a church has to agree to certain rules or concepts. One of those is that the Classis or Synod resolve disputes concerning ecclesiastical matters, and that such rulings are binding on the local church unless they are shown to be contrary to the Word of God. The Classis, following church policy and rules of governance, had what is called the Classis Interim Committee, or CIC, investigate the dispute. Their conclusions are set out in Exhibits 48 and 49. Essentially they recognized the locked out group, headed by Elder Choi and now led by Reverend G. Kim, as the legitimate congregation and council. They further found Reverend Sung to be a Pastor Emeritus, having no power or function within the New Hope CRC, and directed that he return the church property to the congregation. There was no evidence presented that the Classis decision on these matters was contrary to the Word of God.

16. The CIC delayed imposition of its findings and called in a mediator from Los Angeles, Reverend T. Park, to attempt to reach an amicable resolution of the dispute between Reverend Sung and the church council. Reverend Park met with both groups without success. He then recommended the decision of the Classis be implemented. See Exhibit 50.

17. Reverend Sung refused to comply with the ruling of the Classis, and refused to return the church property. This lawsuit was then instituted to try to enforce the decision that the church property belonged to the congregation, and that Reverend Sung had wrongfully transferred the same. Meantime, Elder Choi moved to reinstate the church entity that had been dissolved in 2000 (UBI No. 601-811-132) under the name "New Hope Christian Reformed Church of Tacoma," identifying Plaintiffs Choi, Kim, and Hilton as directors. As it stands, there are two entities vying for rights to the property: Morning Star World Mission, which claims possession by way of the quitclaim deed executed by Reverend Sung and the "New Hope" entity he established (or re-established) in 2005; and Mr. Choi's "New Hope" entity, which asserts itself as a successor to the church entity that originally acquired the property.

18. The primary issue upon which both sides spent a large portion of the trial was whether the CRC is hierarchical or congregational. There was testimony that it is a blend, and that is probably true, but it is clearly more congregational. That, however, doesn't

resolve the issue. In order to be affiliated with the CRC a church has to agree to certain rules or concepts. One of those is the church will follow the rulings of the Classis or Synod on matters ecclesiastical unless the rulings are contrary to the word of God. Thus, the congregation, church council, elders, deacons and pastor of New Hope CRC were bound to follow the rulings of the Classis on the issue of who is the congregation of the New Hope CRC and what authority Reverend Sung had as a Pastor Emeritus. Those rulings were clearly ecclesiastical. They were not about ownership of property, but about who were members of this church.

19. The parties also dispute the effect and enforceability of the October 2002 agreement (paragraph 8 above), in light of Reverend B. Kim's failure to become an ordained CRC minister and his departure from the church in 2004. Reverend Sung argues that Reverend Kim's actions constitute a material breach of the agreement, and justified rescission of the contract and return of the property to Reverend Sung. The Court concludes that Reverend Kim's actions were not a material breach justifying rescission, in light of the fact that the church council agreed and sought to replace Reverend Kim with a new CRC minister with the assistance of the Classis, in accordance with CRC procedures. Further, the Court concludes that Reverend Sung waived his right to rescission, by retaining the $60,000 payment and other benefits of the agreement. Further any failures to pay the debts assumed were not a material breach, no demand or obligation existed from or to the creditor during the period in question.

20. No matter which way this matter is decided, one inescapable conclusion is that the tragedy of this case lies in the inability of the parties to mediate or somehow resolve their differences. The result is that the Court is placed in the position of making an all or nothing decision.

20.5. Elder Choi legally reinstated the nonprofit corporate status of the Church entity that had been dissolved in 2000 (UBI No. 601-811-132) under the name "New Hope Christian Reformed Church of Tacoma" in June of 2005.

II. CONCLUSIONS OF LAW

21. The Court heard mounds of evidence touching on all of the various theories of the parties. Most of that evidence has turned out to be irrelevant to my decision. I am not going to discuss most of the theories or evidence except as previously noted because they are irrelevant or become moot based on my conclusions.

22. The Court concludes that questions concerning membership and governance of the church are ecclesiastical matters, subject to resolution by the Classis under CRCNA rules. Indeed, the Reformation, which gave birth to the CRCNA, was largely about governance. Thus, the congregation, church council, elders, deacons and pastor of New Hope CRC were bound to follow the rulings of the Classis on the issue of who is the congregation of the New Hope CRC, and what authority Reverend Sung had as a Pastor Emeritus. Those rulings were clearly ecclesiastical. They were not

about ownership of property, but about who were members of this church. There has been no evidence that these rulings are contrary to the word of God. There has been evidence, both pro and con, that this lawsuit violates the word of God. That, however, has nothing to do with whether the Classis rulings as to who the congregation may be are contrary to the word of God.

23. The discussion above invokes what is often referred to as the deference rule. The Court must defer to the rulings of the church on ecclesiastical matters, which include church governance. As noted, affiliated churches have to follow these same rules of governance.

24. The defendants have argued that the plaintiffs do not have standing to pursue legal action to enforce the decision of the Classis. The Court is satisfied that the analysis above confers standing on plaintiffs. How else does the Classis or congregation enforce these decisions? They must seek enforcement through non-ecclesiastical means, the courts. The Classis is not incorporated; it is a part of the CRCNA.

25. Thus, I am bound to accept the rulings of the Classis, regardless of what I may think about them. I do believe them to be correct, but that is of no consequence. What then follows from those conclusions? What follows is in the area the Court does have authority.

26. The defendants also make several arguments based upon nonprofit corporation law. One problem with

those arguments is that if they were to prevail, I would be allowing Reverend Sung to benefit from his own acts of misfeasance. He essentially allowed the dissolution of the corporation that Mr. Choi ultimately reinstated. He ran this church essentially as an unincorporated association most of the time. Any application of the nonprofit corporations act that would allow him to transfer title to the church would clearly be inequitable and not be just. Further, the New Hope CRC has been reinstated by Mr. Choi with the same UBI number as the old corporation. Reverend Sung's corporation that he established in 2005 was a new corporation and did not own the church. The church was owned by the congregation. The Classis has ruled that all of the congregation that was locked out are the New Hope CRC congregation and thus, I'm ruling, the rightful owners of the church. The church must be conveyed back to the congregation's nonprofit corporation and the congregation can deal with the current tenants.

27. This case really comes down to a simple question with a relatively simple answer. Does a retiring minister get to take the church property with him when he retires? Of course not, but that is essentially what Reverend Sung is asking me to rule.

28. Based on the foregoing findings and conclusions, the Court **grants** Plaintiffs' claims for declaratory relief establishing that New Hope Christian Reformed Church of Tacoma is the rightful owner of the subject property. The Court's ruling is based on the deference rule, as described above.

29. Defendants have argued that the deference rule does not apply in this case, and that the matter should be analyzed under "neutral principles of law." Insofar as neutral principles of law apply, I conclude that Reverend Sung was bound by the October 2002 agreement, and not justified in reclaiming possession of the property from the congregation. The Court does not resolve Plaintiffs' alternate theories of relief based on promissory estoppel and breach of fiduciary duty, on the grounds that those claims are moot.

30. Plaintiffs have also asserted a claim for trespass, and seek damages for Reverend Sung's and Morningstar's invasion of the property. In order to establish intentional trespass, a plaintiff must show (1) an invasion of property affecting an interest in exclusive possession; (2) an intentional act; (3) reasonable foreseeability that the act would disturb the plaintiff's possessory interest; and (4) actual and substantial damages. The evidence shows that Reverend Sung and Morningstar intentionally invaded the property, excluded the rightful owners, and that the congregation suffered damages as a result. The Court finds in favor of plaintiffs on the trespass claim, and will assess damages equivalent to the rents received by Reverend Sung and Morningstar, respectively, for use the property. Based on the evidence submitted (Ex. 89), Morningstar received rents in the amount of $27,500 through September 10, 2007. Damages will be assessed at $1500 per month from that point forward until judgment is entered and the property is returned.

31. Reverend Sung has pleaded counterclaims for conversion, intentional infliction of emotional distress, slander of title, declaratory relief, and interference with business relationship. Based on the conclusion that plaintiffs were entitled to possession of the property, none of these claims can be sustained, and they are dismissed. Reverend Sung had also asserted a claim for defamation, which was abandoned, and so it is dismissed as well.

III. ORDER

Based on the foregoing, the Court shall enter judgment as follows:

1. Defendants will promptly execute quitclaim deed transferring all interest in the property to the congregation's nonprofit corporate entity, New Hope Christian Reformed Church of Tacoma. If whoever claims to be in charge as a corporate officer of Morningstar Ministries is unwilling to reconvey the property, then I will appoint a special master to do so.

2. Pending reconveyance of the property, all rent and other payments, however designated, relating to the use of the property shall be paid to the New Hope Christian Reformed Church of Tacoma, for the ultimate benefit of the New Hope CRC congregation.

3. Morning Star will be liable to Plaintiffs for revenues generated from the property, in the amount $27,500 through September 10, 2007, and an additional $1,500 per month from September 10, 2007, through the date of judgment.

4. Defendants' counterclaims will be dismissed with prejudice.

5. Execution of the judgment with respect to repossession of the property may be stayed upon posting of a $50,000 bond.

DATED this 31 day of March, 2008.

_____

Bruce W. Cohoe
Judge Pro Tem

APPENDIX C — OPINION OF THE SUPREME COURT OF WASHINGTON DECIDED AND FILED JULY 7, 2010

SUPREME COURT OF WASHINGTON

No. 84284-1

TAE T. CHOI ET AL.,

Respondents,

v.

SUNG ET AL.,

Petitioners.

OPINION

Petition for review of a decision of the Court of Appeals, No. 37313-1-II, February 2, 2010, *154 Wn. App. 303. Denied* July 7, 2010.